

THE HFA INSTITUTE 2024

Compliance Requirements in Acquisition/ Rehabilitation Deals



National Council of State Housing Agencies



MRBs and Other Federal Homeownership Programs
JANUARY 10 – 12



Housing Credit
JANUARY 9 – 11



Section 8 and Other Federal Multifamily Programs
JANUARY 10 – 12



HOME and Housing Trust Fund
JANUARY 7 – 9



DISCUSSION LEADER

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Acq/Rehab Fundamentals



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Allocation & Calculation of Credits

Calculation of Acquisition & Rehabilitation Credits

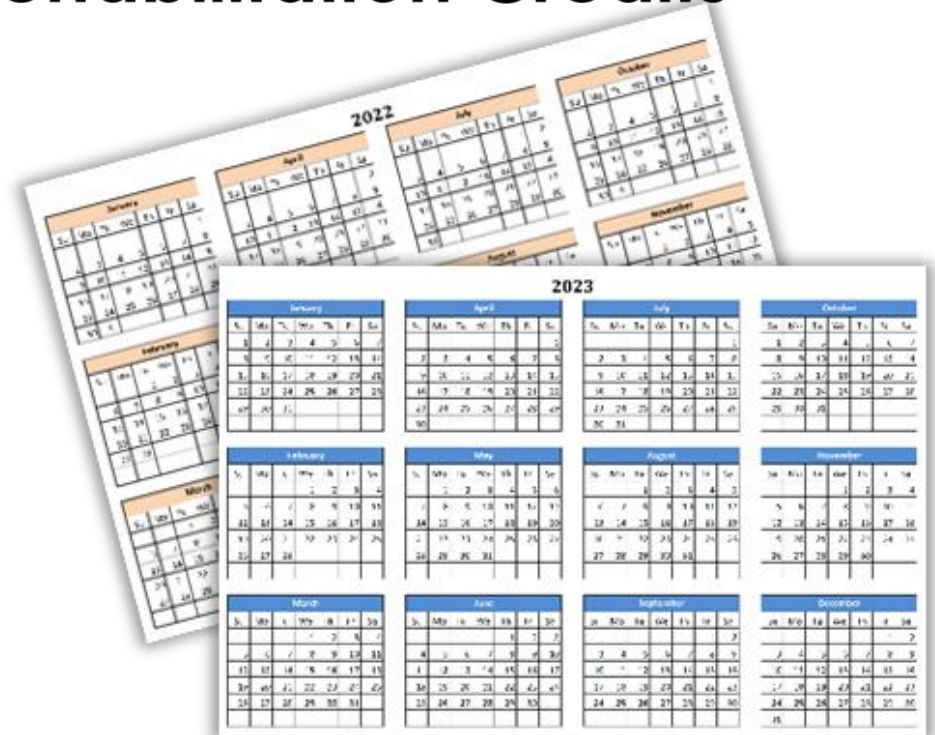
Acquisition credits and rehab credits are **separate credit allocations**, meaning, for buildings allocated both acquisition credits & rehab credits, a separate calculation is made to determine the annual credit from both credit allocation streams.



Claiming Credits

Placed-In-Service Dates - Acquisition & Rehabilitation Credits

For buildings claiming both rehab and acquisition credits, **both credits must begin in the same year.**



Claiming Credits

Placed-In-Service Dates - Acquisition & Rehabilitation Credits

Acquisition Credit – The placed-in-service date (PIS) is the date that the building is acquired (purchased).

Rehab Credit – The placed-in-service date, is an **owner-elected date during any 24-month period**, over which such expenditures are aggregated, where at least:

- **20% of the adjusted basis is spent, or**
- **The minimum per-unit amount is spent.**

Note: This number is subject to inflation and is published each year by publication of a revenue procedure.

Claiming Credits

Placed-In-Service Dates - Acquisition & Rehabilitation Credits

Same Year – If the acquisition and the rehab place in service in the same year, the credits for both credit streams may be claimed beginning the date of acquisition.

Example – Same Year

A building's acquisition date is 02/01/2022. The rehab is placed in service on 11/30/2022.

*Both credit streams may be claimed as of the date of acquisition of **02/01/2022**.*

Claiming Credits

Placed-In-Service Dates - Acquisition & Rehabilitation Credits

Different Years – If the rehab credit places in services in a different year than the acquisition credit, both credit streams may be claimed as of the first of the year that the rehab placed in service.

Example – Different Years

A building's acquisition date is 07/01/2022. The rehab is placed in service on 03/01/2023.

*Both credits may be claimed beginning on **01/01/2023**.*

Claiming Credits

Claiming Credits Year One

The Applicable Fraction reached at the end of year one of the credit period is used to determine the amount of credits the owner is eligible to claim each year, years 2 through 10. However, there is a separate computation required to determine the Applicable Fraction used to calculate the amount of credits that the owner is eligible to claim Year One.

This pro-rated method is computed by determining the Applicable Fraction as of the last day of each month, beginning with the first full month that the building is placed in service, and then averaging these monthly Applicable Fractions.

- If a building is placed in service on the first day of the month, then credits may be claimed the month the building is placed in service.
 - If a building is placed in service on any day **AFTER** the first day of the month, credits may be claimed beginning the month **AFTER** the building is placed in service.
-

Example – Year One – Prorated Applicable Fraction

A 10-unit building is placed-in-service on May 5th. All of the units are the same size.

All of the units were occupied by LIHTC qualified households on the dates noted below:

- **Unit 1** May 5th
- **Unit 2** May 31st
- **Unit 3** June 30th
- **Unit 4** July 1st
- **Unit 5** September 15th
- **Unit 6** September 25th
- **Unit 7** October 8th
- **Unit 8** October 30th
- **Unit 9** October 31st
- **Unit 10** November 3rd

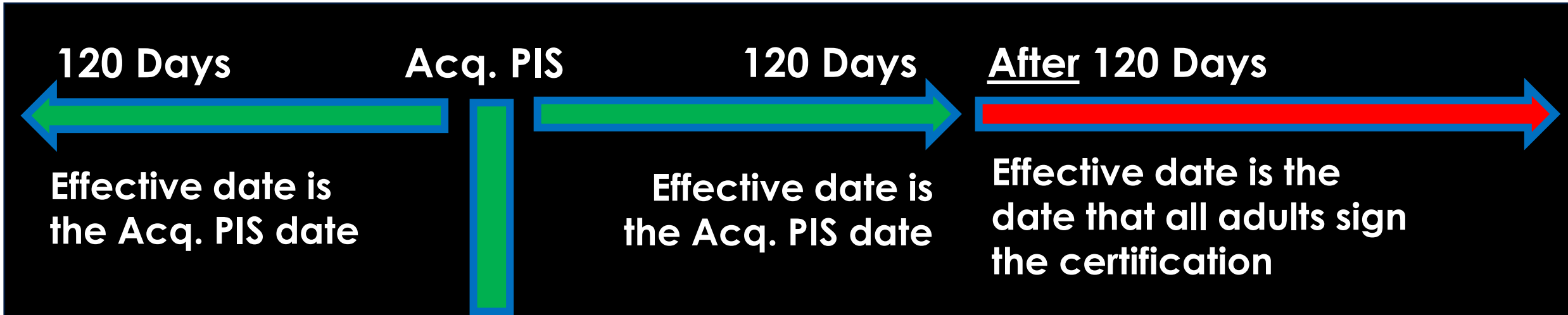
Placed-in-Service Date: May 5th

Credits Begin: June

Jan	Feb	Mar	Apr	May	Jun	July	Aug	Sep	Oct	Nov	Dec	Totals	=	Year 1 AF
0	0	0	0	0	3	4	4	6	9	10	10	46	=	.38333 =
10	10	10	10	10	10	10	10	10	10	10	10	120		38.33%

The pro-rated fraction for year one is 38.33%. This means that if an owner has annual credit amount of \$100,000, the owner will only receive 38.33% of the annual credit in year one, which would amount to \$38,330. The owner does not forgo the balance of the annual credit, the remaining 61.67%, which amounts to \$61,670 can be claimed in year 11 of the compliance period.

Certifying Existing Households



Example – Existing Tenant Income Certification Effective Dates

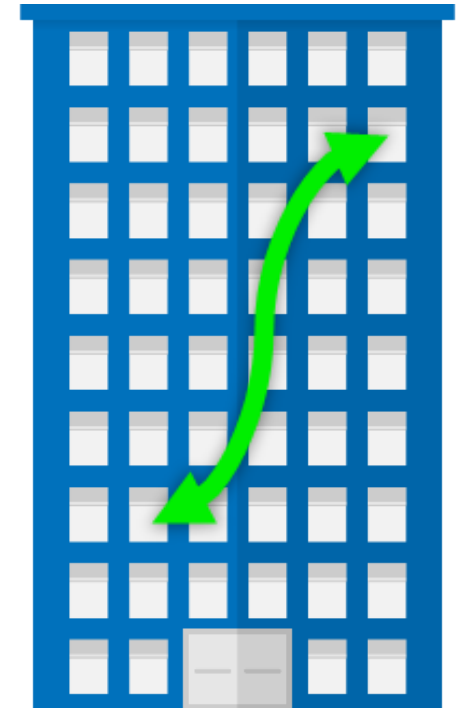
Acquisition PIS Date: 03/01/2023

- Unit 301 – Certification completed on 05/03/2023; effective date on TIC is 03/01/2023
- Unit 119 – Certification completed on 12/18/2022; effective date on TIC is 03/01/2023
- Unit 227 – Certification completed on 10/18/2023; effective date on TIC is 10/18/2023

Unit Transfers

Transfers Within Same BIN

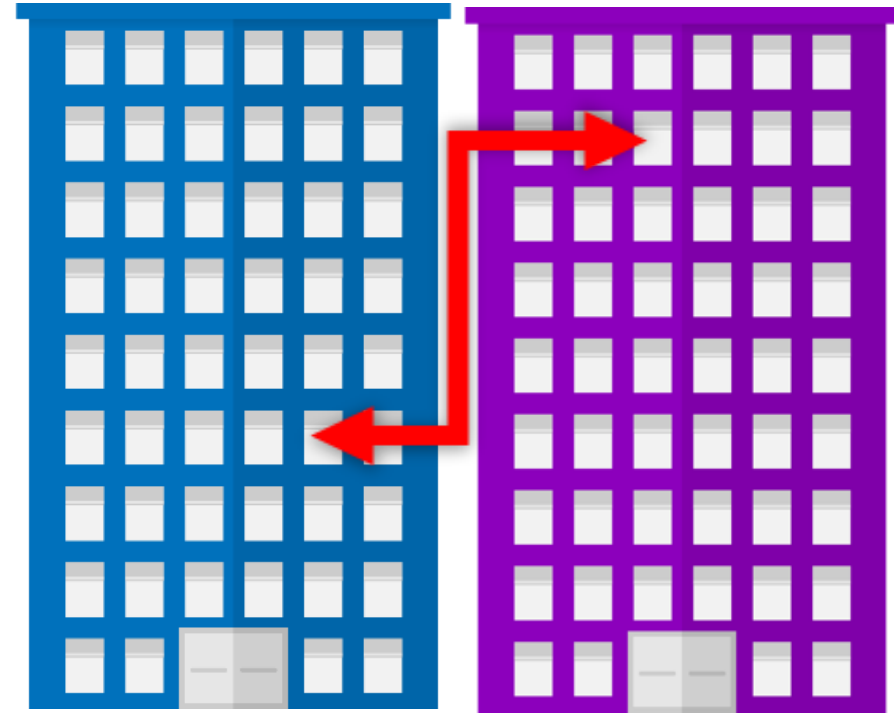
A household may transfer to a unit within the same building (BIN) without needing to complete a new recertification, even if the household's income is over 140% of the applicable federal income limit.



Unit Transfers

Transfers to a Different BIN

A household may transfer to a unit in a different building (BIN) within a project (as defined by the Form 8609) without needing to complete a new recertification if the household's income did not exceed 140% of the applicable federal income limit as of the household's most recent recertification.

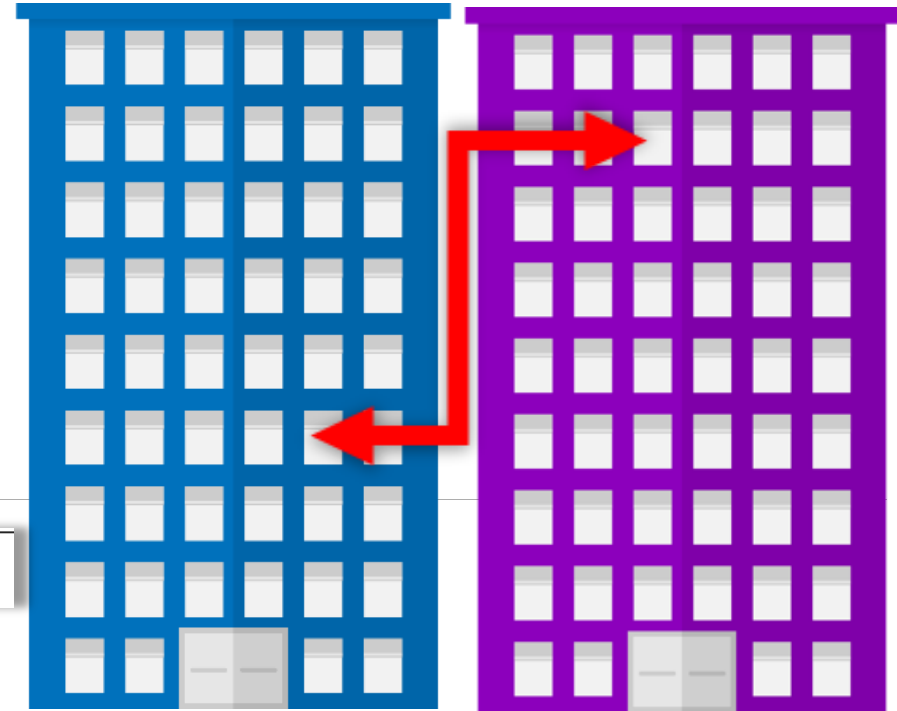


Unit Transfers

Transfers to a Different BIN

If a household was over 140% of the federal applicable limit at their most recent recertification, the household cannot transfer to a unit in a different building.

This is the case, even if the building is part of a multiple building project.



b Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)? Yes No

Transfers Year 1

Transfers – Year One

Since the unit's status switches upon transfer, it is important to be aware that one household may only initially qualify one unit.

BUILDING A

Unit	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
101					A. Black	A. Black	A. Black	A. Black	OFF-LINE	A. Bean	A. Bean	A. Bean
102					B. Brown	B. Brown	B. Brown	B. Brown	B. Brown	B. Brown	OFF-LINE	B. Rice
103					C. Gray	C. Gray	OFF-LINE	OFF-LINE	OFF-LINE	C. Gray	C. Gray	C. Gray
104					OFF-LINE	D. Green	D. Green	D. Green	D. Green	D. Green	D. Green	D. Green
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
	0	0	0	0	3	4	3	3	2	4	3	4
	4	4	4	4	4	4	4	4	4	4	4	4
					75.00%	100.00%	75.00%	75.00%	50.00%	100.00%	75.00%	100.00%
										26		
										48		
												54.17%

BUILDING B

Unit	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
201					D. Green	OFF-LINE	OFF-LINE	D.Hamm	D.Hamm	D.Hamm	D.Hamm	D.Hamm
202					OFF-LINE	OFF-LINE	E. Rose	OFF-LINE	A. Black	A. Black	A. Black	A. Black
203					OFF-LINE	OFF-LINE	C. Gray	C. Gray	C. Gray	OFF-LINE	B. Brown	B. Brown
204					E. Rose	E. Rose	OFF-LINE	E. Rose	E. Rose	E. Rose	E. Rose	E. Rose
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
	0	0	0	0	2	1	2	3	4	3	4	4
	4	4	4	4	4	4	4	4	4	4	4	4
					50.00%	25.00%	50.00%	75.00%	100.00%	75.00%	100.00%	100.00%
												23
												48
												47.92%

Unit 101:

04/23/23 – A. Black, existing tenant, certified in #101

09/19/23 – A. Black transferred out of #101 and into #202

10/20/23 – Rehab is complete, and A. Bean is certified and moves in

BUILDING A												
Unit	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
101					A. Black	A. Black	A. Black	A. Black	OFF-LINE	A. Bean	A. Bean	A. Bean
102					B. Brown	B. Brown	B. Brown	B. Brown	B. Brown	B. Brown	OFF-LINE	B. Rice
103					C. Gray	C. Gray	OFF-LINE	OFF-LINE	OFF-LINE	C. Gray	C. Gray	C. Gray
104					OFF-LINE	D. Green	D. Green	D. Green	D. Green	D. Green	D. Green	D. Green
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
	0	0	0	0	3	4	3	3	2	4	3	4
	4	4	4	4	4	4	4	4	4	4	4	4
					75.00%	100.00%	75.00%	75.00%	50.00%	100.00%	75.00%	100.00%
											26	48
												54.17%
												0.541666667

BUILDING B												
Unit	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
201					D. Green	OFF-LINE	OFF-LINE	D.Hamm	D.Hamm	D.Hamm	D.Hamm	D.Hamm
202					OFF-LINE	OFF-LINE	E. Rose	OFF-LINE	A. Black	A. Black	A. Black	A. Black
203					OFF-LINE	OFF-LINE	C. Gray	C. Gray	C. Gray	OFF-LINE	B. Brown	B. Brown
204					E. Rose	E. Rose	OFF-LINE	E. Rose	E. Rose	E. Rose	E. Rose	E. Rose
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
	0	0	0	0	2	1	2	3	4	3	4	4
	4	4	4	4	4	4	4	4	4	4	4	4
					50.00%	25.00%	50.00%	75.00%	100.00%	75.00%	100.00%	100.00%
											23	48
												47.92%
												0.479166667

Unit 102:

05/01/23 – B. Brown, existing tenant, certified in #102

11/02/23 – B. Brown transferred out of #102 and into #203

12/23/23 – Rehab is complete, and B. Rice is certified and moves in

BUILDING A												
Unit	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
101					A. Black	A. Black	A. Black	A. Black	OFF-LINE	A. Bean	A. Bean	A. Bean
102					B. Brown	B. Brown	B. Brown	B. Brown	B. Brown	B. Brown	OFF-LINE	B. Rice
103					C. Gray	C. Gray	OFF-LINE	OFF-LINE	OFF-LINE	C. Gray	C. Gray	C. Gray
104					OFF-LINE	D. Green	D. Green	D. Green	D. Green	D. Green	D. Green	D. Green
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
	0	0	0	0	3	4	3	3	2	4	3	4
	4	4	4	4	4	4	4	4	4	4	4	4
					75.00%	100.00%	75.00%	75.00%	50.00%	100.00%	75.00%	100.00%
										26		
										48		
												54.17%
												650.00%
												0.541666667

BUILDING B												
Unit	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
201					D. Green	OFF-LINE	OFF-LINE	D.Hamm	D.Hamm	D.Hamm	D.Hamm	D.Hamm
202					OFF-LINE	OFF-LINE	E. Rose	OFF-LINE	A. Black	A. Black	A. Black	A. Black
203					OFF-LINE	OFF-LINE	C. Gray	C. Gray	C. Gray	OFF-LINE	B. Brown	B. Brown
204					E. Rose	E. Rose	OFF-LINE	E. Rose	E. Rose	E. Rose	E. Rose	E. Rose
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
	0	0	0	0	2	1	2	3	4	3	4	4
	4	4	4	4	4	4	4	4	4	4	4	4
					50.00%	25.00%	50.00%	75.00%	100.00%	75.00%	100.00%	100.00%
										23		
										48		
												47.92%
												575.00%
												0.479166667

Unit 103:

05/10/23 – C. Gray, existing tenant, certified in #103

07/11/23 – C. Gray transferred out of #103 and into # 203

10/01/23 – Rehab is complete, and C. Gray Transfers back from #203 into #103

BUILDING A

Unit	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec		
101					A. Black	A. Black	A. Black	A. Black	OFF-LINE	A. Bean	A. Bean	A. Bean		
102					B. Brown	B. Brown	B. Brown	B. Brown	B. Brown	B. Brown	OFF-LINE	B. Rice		
103					C. Gray	C. Gray	OFF-LINE	OFF-LINE	OFF-LINE	C. Gray	C. Gray	C. Gray		
104					OFF-LINE	D. Green	D. Green	D. Green	D. Green	D. Green	D. Green	D. Green		
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec		
	0	0	0	0	3	4	3	3	2	4	3	4	26	
	4	4	4	4	4	4	4	4	4	4	4	4	48	54.17%
					75.00%	100.00%	75.00%	75.00%	50.00%	100.00%	75.00%	100.00%	650.00%	0.541666667

BUILDING B

Unit	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec		
201					D. Green	OFF-LINE	OFF-LINE	D.Hamm	D.Hamm	D.Hamm	D.Hamm	D.Hamm		
202					OFF-LINE	OFF-LINE	E. Rose	OFF-LINE	A. Black	A. Black	A. Black	A. Black		
203					OFF-LINE	OFF-LINE	C. Gray	C. Gray	C. Gray	OFF-LINE	B. Brown	B. Brown		
204					E. Rose	E. Rose	OFF-LINE	E. Rose	E. Rose	E. Rose	E. Rose	E. Rose		
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec		
	0	0	0	0	2	1	2	3	4	3	4	4	23	
	4	4	4	4	4	4	4	4	4	4	4	4	48	47.92%
					50.00%	25.00%	50.00%	75.00%	100.00%	75.00%	100.00%	100.00%	575.00%	0.479166667

Unit 104:

(VACANT at time of Acquisition)

06/01/23 – Rehab is complete, and D. Green transferred from #201 to #104



Resyndication



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Resyndication

What is it?

A subsequent allocation of tax credits.

Does it replace first set of rules?

No.

Chart: Example of Extended Use Period Overlap



Resyndication

Questions

How to document eligibility? HFA policies...

- Past Cert? Emerging trend...

What if there is no overlap?

No grandfathering.

Rents still hold harmless/HERA special?

No.



Investor Expectations on Acq-Rehab Deals



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Syndication

- Purpose
- Benefits
- Fiduciary obligations

Syndication

Typical lower-tier partnership structure

Entity	Role in the LP/LLC	Ownership Interest	Duties & Responsibilities
Developer	General Partner/ Managing Member	0.01% (minimum)	Manages the asset, assumes unlimited liability, guarantees credits
Syndicator	Special Limited Partner/ Special Member	0.01%	Provide oversight, holds consent rights and enforces terms of the agreement
Investment Fund	Limited Partner/ Investor Member	Up to 99.98%	Passive role, contribute capital, assumes limited liability

Credit Delivery and Adjustments

- Commitment on credit delivery outlined in the partnership agreement per the underwriting model
- Types of adjustment to the equity contribution
 - Price Adjuster : adjustment made to pay for the *actual* credits to be allocated to the LP over the 10-yr period
 - Basis shortfall or excess
 - 2/3 credits
 - Additional allocation

Credit Delivery and Adjustments - Timing

- Timing Adjuster - adjustment made for credits delivered in the first two years of the credit period.
- Projected LP credits: \$10,000,000. Timing adjuster factor/price: \$0.80.

Year 1:	\$ 250,000	\$250,000	required for 2022 (100% of units delivered from Oct-Dec in 2022)
Year 2–10:	\$1,000,000	\$9,000,000	required for 2023-2030 (full annual, 100% of units from Jan-Dec in 2023)
Year 11:	<u>\$750,000</u>	<u>\$750,000</u>	required for 2031 (balance from the first year)
		\$10,000,000	

....In the event the actual credits are less than \$250,000 in 2022, and \$1,000,000 in 2023, then the LP's capital contribution will be reduced by an amount equal to 80% times the difference between the projected credits for 2022 or 2023 and the actual credits for 2022 and 2023.

All units were qualified in 2022 but construction delayed the rehab completion of all buildings to 2023:

\$ 0	actual delivered in 2022
<u>\$250,000</u>	projected/required for 2022
(\$250,000)	difference
<u>x \$0.80</u>	adjustment factor
(\$200,000)	enforceable timing adjuster for 2022

\$1,000,000	actual delivered in 2023
<u>\$1,000,000</u>	projected/required for 2023
(\$0)	difference
<u>x \$0.80</u>	adjustment factor
N/A	enforceable timing adjuster for 2023

Investor Expectations

- Clear understanding of credit commitments and delivery start date
 - Realistic credit commitment requires management's buy-in
 - Team responsible for initial qualification must be aware of the credit delivery start

- Management should be given all restrictions and requirements to be successful
 - Scope of work, rehab timeline/schedule and any changes
 - Relocation plan that agrees with the rehab schedule
 - Tenant transfers to maximize credit delivery

Investor Expectations

- Understanding and application of critical dates
 - Acquisition PIS
 - Fund Entry / Assignment and Assumption of LP Interest
 - Credit Commencement
- Credit flow split or deferral of buildings
 - Deferral of building(s)
 - MSA
 - Multi-building election
 - First-year documentation and reporting requirements

What can go wrong & How to correct it



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